

State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF AIR QUALITY

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Certified Mail

DAQC-089-2002

January 18, 2002

Nathan Rich
Wasatch Energy Systems
650 East Highway 193
Layton, Utah 84041

Dear Mr. Rich:

Re: Wasatch Energy Systems - Settlement of Notices of Violation Dated March 14, 2001, April 9, 2001, and June 14, 2001, Davis County

Pursuant to the settlement meeting on January 15, 2002, between Wasatch Energy Systems (WES) and the Division of Air Quality, two copies of a Settlement Agreement to resolve the above-referenced Notices of Violation are enclosed for your company's signature. By signing the Agreement, WES would agree to the following:

The total stipulated penalty is \$1,098,954.

\$201,274 will be paid in cash to the Utah Air Quality Board within 30 days of the effective date of the Agreement.

\$100,000 will be credited toward a third party consultant to study good combustion practices at WES.

\$220,000 will be credited towards a Supplemental Environmental Project (SEP) which consists of installing a thermal oxidizer to destroy methane gasses at the Davis County Landfill.

\$50,000 will be credited towards a SEP which consists of WES participating in a recycling and composting program.

\$50,000 will be credited towards a SEP which consists of WES conducting a soil sampling study.

The remaining \$477,680 penalty would be deferred beginning July 1, 2002. Any collection of the deferred penalty will be paid as described in the attached Settlement Agreement.

Please respond within 15 days upon receipt of this notice. To accept the Agreement, sign both copies of the Agreement and return them to Richard W. Sprott, Executive Secretary, Utah Air Quality Board, at the letterhead address. Both copies will then be signed and dated by the Executive Secretary, and one copy will be

returned to you. The Agreement will become effective on the date it is signed by the Executive Secretary. If you do not sign the settlement agreement, provide a written response explaining the reason.

If you have any questions concerning this matter, call Jay Morris at (801) 536-4079.

When responding, refer to the date on this letter.

Sincerely,

Richard W. Sprott, Executive Secretary
Utah Air Quality Board

RWS:JM:aj

Enclosures: Settlement Agreement (2)

cc: Davis County Health Department

Utah Air Quality Board

In The Matter of : Settlement
Wasatch Energy Systems : Agreement
 :

This Settlement Agreement is entered into between Wasatch Energy Systems (WES), and the Utah Air Quality Board (UAQB) pursuant to the Utah Air Conservation Act (Act), Utah Code Ann. § 19-2-101 et seq. (as amended). Without adjudication of any issue of fact or law and without admission of any liability, the parties hereto, the Executive Secretary of the UAQB and WES, hereby agree as follows:

1. The UAQB has jurisdiction over the subject matter of this Agreement, pursuant to Utah Code Ann. §§ 19-2-104 and 19-2-110, and jurisdiction over the parties.
2. The Executive Secretary of the UAQB has been authorized by the UAQB pursuant to Utah Code Ann. §§ 19-2-104, 19-2-107, and 19-2-110 to issue Notices of Violation and to negotiate and enter into Settlement Agreements on behalf of the UAQB.
3. The purpose of this Agreement is to settle the following alleged violations of the Utah Administrative Code(UAC) R307-401, UAC R307-170-9(10), and condition 7 of the Approval Order dated September 10, 1996, Davis County , Utah:

<u>Date of Violations</u>	<u>Date of Notice of Violation</u>	<u>Violations</u>
01/18/2001	03/14/2001	Exceeding the HCL emission limit on unit A during stack testing.
10/10/2000	04/09/2001	Exceeding the dioxin/furan emission limit on unit A during stack testing.
Numerous	04/09/2001	Failing to provide narrative descriptions of excess emissions in the State Electronic Data Report (SEDR).
1999 and 2000	04/09/2001	Failing to operate either unit A or B in compliance with the CO emission limit for at least 95% of the annual operating hours.
03/06/2001	06/14/2001	Exceeding the dioxin/furan emission limit on unit A during stack testing.

4. The parties now wish to resolve this matter fully without admissions of any violations, liability, wrongdoing, failure or omissions whatsoever, and without further administrative or judicial proceedings.
5. None of the provisions of this Agreement shall be considered admissions by any party and shall not be used by any person related or unrelated to this Agreement for purposes other than determining the basis of this Agreement. This Agreement resolves all issues related specifically to the violations listed in paragraph 3 by all owners and/or operators at the time of the alleged violations.
6. Compliance with this Agreement resolves only the alleged violations listed in paragraph 3 of this Agreement and in no way relieves WES from any future obligations imposed under the Act or Rules promulgated thereunder.
7. In settlement of the alleged violations listed in paragraph 3 of this Agreement, WES agrees to a stipulated penalty of \$1,098,954.
8. The total stipulated penalty will be distributed as follows:
 - a. \$201,274 will be paid in cash to the Utah Air Quality Board within 30 days of the effective date of the Agreement. This amount includes \$182,954 for economic benefit and \$18,320 as a cash penalty.
 - b. \$100,000 will be credited toward a third party consultant to study good combustion practices at WES.
 - c. \$220,000 will be credited towards a Supplemental Environmental Project (SEP) which consists of installing a thermal oxidizer to destroy Methane gasses at the Davis County Landfill.
 - d. \$ 50,000 will be credited towards a SEP which consists of WES participating in a recycling and composting program, or other similar community based program.
 - e. \$ 50,000 will be credited towards a SEP which consists of WES funding a dioxin/furan environmental sampling study.
 - f. \$477,680 of the penalty would be deferred for a period of 2 years beginning July 1, 2002. Any collection of the deferred penalty will be in proportion to the penalties assessed in this settlement agreement.

- (i) In case of a dioxin/furan emission limit exceedance, 95% or \$453,796 of the deferred amount will be collected.
- (ii) In case of a CO emission exceedance, 3% or \$14,330 of the deferred amount will be collected.
- (iii) In case of an SEDR reporting violation, 1% or \$4,777 of the deferred amount will be collected.
- (iv) In case of an HCL emission limit exceedance, 1% or \$4,777 of the deferred amount will be collected.

If WES does not violate this Agreement, the Act, Rules, or Orders within two years beginning July 1, 2002, the remaining \$477,680 of the stipulated penalty shall be waived.

- 9. Nothing in this Agreement, including payment of the remaining stipulated penalty, shall preclude the UAQB from seeking civil penalties for future violations of the Act, Rules, or Orders.
- 10. If the total penalty amount is not paid as agreed, this Agreement may become null and void at the discretion of the Board.
- 11. This Agreement shall become effective upon execution by both parties.

Dated this _____ day of _____, 2002.

Utah Air Quality Board

By: _____

By: _____

Name:
Title:

Richard W. Sprott
Executive Secretary